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**Please find below and/or attached an Office communication concerning this application or proceeding.**

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## Office Action Summary

**Application No.**

10/577,337

**Applicant(s)**

NAOE ET AL.

**Examiner**

Xavier Szewai Wong

**Art Unit**

2462

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 08.28.2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/CD)  
Paper No(s)/Mail Date 09.23.09 and 11.09.09
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

Pending claims **1-27**

### ***Information Disclosure Statement***

The information disclosure statements submitted on 09.23.2009 and 11.09.2009 are in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

### ***Specification***

The abstract of the disclosure replacement filed on 08.28.2009 is acknowledged.

### ***Claim Rejections - 35 USC § 102***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims **6** and **16** are rejected under 35 U.S.C. 102(b) as being anticipated by Takahashi (JP 1998-107737 A).

Claim **6**: Takahashi teaches a transmitter which carries out communication with a receiver by establishing connection of their plurality of communication layers (abstract solution: IrLMP and IrLAP layers),

the transmitter (fig. 5: IR transmitter) comprising:

disconnection request generating means (fig. 5: element 61) for generation a disconnection request containing a command and data required for disconnecting a number of contiguously adjacent layers among the plurality of communication layers ([0052] lines 4-9: IrLMP level sends a disconnection data frame request); and

disconnection request transmitting means for transmitting the disconnection request to the receiver ([0053]: transmitter A sends disconnection request to receiver B).

Claim 16: Takahashi shows a receiver which carries out communication with a transmitter by establishing connection of their plurality of communication layers (abstract solution: IrLMP and IrLAP layers),

the receiver (fig. 4: receiver B) comprising:

disconnection request receiving means (fig. 4: IrLAP section of B) for receiving a disconnection request containing a command and data required for disconnecting a number of contiguously adjacent layers among the plurality of communication layers ([0019]: DISC-Frame 37; [0053]: DISC-Frame 13); and

disconnecting means (fig. 4: IrLMP section of B) for extracting the command and data from the disconnection request ([0020]: Disconnect Indication 38 comprises command for disconnection; fig. 12: (38); [0058]: data command for disconnection indicated), and carrying out disconnection for the plurality of communication layers based on the command and data ([0021]: Unnumbered Acknowledgement Frame acknowledges disconnection completion).

### ***Claim Rejections - 35 USC § 103***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1, 3, 4, 8, 12, 13, 17, 18, 22, 23, 24, 25, 26 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ozawa et al (JP 1997-224069 A, Ozawa) in view of Ikeda et al (US 2005/0083885 A1, Ikeda).

Claim 1: Ozawa teaches a transmitter which carries out communication with a receiver by establishing connection of their plurality of communication layers (fig. 1: IrLMP and IrLAP),

the transmitter (fig. 1: device 1) comprising:

connection request generating means (fig. 1: IrLMP 11) for generating a connection request and sending the connection request transmitting means for transmitting the connection request to the receiver (fig. 1: SNRM is sent from device 1 to device 2).

Ozawa does not very explicitly show “containing a command and data required for connecting a number of contiguously adjacent layers among the plurality of communication layers.” Ikeda teaches a connection request containing a command and data required for connecting a number of contiguously adjacent layers among the plurality of communication layers ([0080]: actual establishment of Layer 3 connection (establishment of L3), creation of an IP address and a Binding Update message on the basis of the IP packet simultaneously with L2 connection processing – L3 and L2 are contiguous and the L3 connection establishment is simultaneous with that of L2). It would have been obvious to one of ordinary skill in the art when the invention was created to be motivated to reprogram the connection request of Ozawa to perform contiguous adjacent layers connection as taught by Ikeda for quick mobile to mobile handover and communication processing (Ikeda: abstract).

Claim 3: Ozawa-Ikeda teaches connection setting means (fig. 1: IrLAP 12) for carrying out setting for each of the plurality of communication layers according to the response (fig. 1: UA step 6 → connection confirmation step 7), which is received from the receiver as a response to the connection request (fig. 1: connection instruction step 4 & reply step 5).

Claim 4: Ozawa-Ikeda teaches connection setting means (fig. 1: IrLAP 12) for carrying out setting for each of the plurality of communication layers according to the response (fig. 1: connection handle step 2), without receiving the response from the receiver (fig. 1: connection request step 1).

Claims 8 and 18: Ozawa-Ikeda teaches the communication is performed by infrared communication (*abstract*: Infrared).

Claim 12: Ozawa teaches a communication method which carries out communication with a receiver by establishing connection of their plurality of communication layers (fig. 1: IrLMP and IrLAP; devices 1 and 2),

the communication method comprising the steps of:

generating, by connection request generating means (fig. 1: IrLMP 11), a connection request (fig. 1: connection request 1) and transmitting, by connection request transmitting means (fig. 1: IrLAP 12 of device 1) and the connection request to the receiver (fig. 1: SNRM step 3 is sent from device 1 to device 2). Ozawa does not very explicitly mention "containing a command and data required for connecting a number of contiguously adjacent layers among the plurality of communication layers." Ikeda teaches a connection request containing a command and data required for connecting a

number of contiguously adjacent layers among the plurality of communication layers ([0080]: actual establishment of Layer 3 connection (establishment of L3), creation of an IP address and a Binding Update message on the basis of the IP packet simultaneously with L2 connection processing – L3 and L2 are contiguous and the L3 connection establishment is simultaneous with that of L2). It would have been obvious to one of ordinary skill in the art when the invention was created to be motivated to reprogram the connection request of Ozawa to perform contiguous adjacent layers connection as taught by Ikeda for quick mobile to mobile handover and communication processing (Ikeda: abstract).

Claims **13** and **22**: Ozawa teaches a receiver which carries out communication (method) with a transmitter by establishing connection of their plurality of communication layers (fig. 1: device 2 layers IrLAP and IrLMP),

the receiver (fig. 1: device 2) comprising:

connection request receiving means (fig. 1: device 2 IrLAP 22) for receiving a connection request (fig. 1: connection request 1) and connection establishing means (fig. 1: device 2 IrLMP 21) for extracting the command and data from the connection request ([0030] lines 1-3: IrLAP 22 outputs a connection *instruction* to IrLMP 21 in step 4 – such that IrLAP 22 can extract the instruction), and establishing connection for the plurality of communication layers based on the command and data ([0030] lines 3-6: connection response step 5, then an unnumbered acknowledgement in step 6 is sent to device 1 to indicate successful connection). Ozawa does not very explicitly show the connection request “containing a command and data required for connecting a number of contiguously adjacent layers among the plurality of communication layers.” Ikeda teaches connection request containing a command and data required for connecting a number of

contiguously adjacent layers among the plurality of communication layers ([0080]: actual establishment of Layer 3 connection (establishment of L3), creation of an IP address and a Binding Update message on the basis of the IP packet simultaneously with L2 connection processing – L3 and L2 are contiguous and the L3 connection establishment is simultaneous with that of L2). It would have been obvious to one of ordinary skill in the art when the invention was created to be motivated to reprogram the connection request of Ozawa to perform contiguous adjacent layers connection as taught by Ikeda for quick mobile to mobile handover and communication processing (Ikeda: abstract).

Claim 17: Ozawa teaches a receiver which carries out communication (method) with a transmitter by establishing connection of their plurality of communication layers (fig. 1: device 2 layers IrLAP and IrLMP),

the receiver (fig. 1: device 2) comprising:

connection request receiving means (fig. 1: device 2 IrLAP 22) for receiving a connection request (fig. 1: connection request 1); or

a connection request (fig. 1: communication request 1) containing a command and data required for establishing connection of one of the plurality of communication layers (fig. 1: connection request step 1 – since out of the plurality of two contiguously adjacent layers IrLMP and IrLAP exist in this example, the connection request is setting up only with one layer, which is IrLAP, out of the two layers); and

connection establishing means (fig. 1: device 2 IrLMP 21) for extracting the command and data from the connection request ([0030] lines 1-3: IrLAP 22 outputs a connection *instruction* to IrLMP 21 in step 4 – such that IrLAP 22 can extract the instruction), and establishing connection for the plurality of communication layers based on the



command and data ([0030] lines 3-6: connection response step 5, then an unnumbered acknowledgement in step 6 is sent to device 1 to indicate successful connection).

Claims **23** and **27**: Ozawa teaches a communication system includes a transmitter and a receiver which carry out communication by establishing connection of their plurality of communication layers (fig. 1; *abstract*),

the transmitter (fig. 1: device 1) comprising:

connection request generating means (fig. 1: IrLMP 11) for generating a connection request (fig. 1: connection request 1) and connection request transmitting means (fig. 1: IrLAP 12 of device 1) for transmitting the connection request to the receiver (fig. 1: SNRM step 3 is sent from device 1 to device 2); and

the receiver (fig. 1: device 2) comprising:

connection request receiving means (fig. 1: device 2 IrLAP 22) for receiving a connection request; and connection establishing means (fig. 1: device 2 IrLMP 21) for extracting the command and data from the connection request ([0030] lines 1-3: IrLAP 22 outputs a connection *instruction* to IrLMP 21 in step 4 – such that IrLAP 22 can extract the instruction), and establishing connection for the plurality of communication layers based on the command containing data indicating that a destination of transmission is not specified (e.g. the connection request simply setup connection between IrLMP layer and IrLAP layer and there is no specifying of any so-called “destination”) and data ([0030] lines 3-6: connection response step 5, then an unnumbered acknowledgement in step 6 is sent to device 1 to indicate successful connection). Ozawa does not very explicitly show the transmitted or received connection request “containing a command and data

required for connecting a number of contiguously adjacent layers among the plurality of communication layers.” Ikeda teaches connection request containing a command and data required for connecting a number of contiguously adjacent layers among the plurality of communication layers ([0080]: actual establishment of Layer 3 connection (establishment of L3), creation of an IP address and a Binding Update message on the basis of the IP packet simultaneously with L2 connection processing – L3 and L2 are contiguous and the L3 connection establishment is simultaneous with that of L2). It would have been obvious to one of ordinary skill in the art when the invention was created to be motivated to reprogram the connection request of Ozawa to perform contiguous adjacent layers connection as taught by Ikeda for quick mobile to mobile handover and communication processing (Ikeda: abstract).

Claim 24: Ozawa-Ikeda teaches the plurality of communication layers include at least one upper-level protocol layer in addition to a data link layer (Ikeda, [0080]: layer 3 = upper-level protocol (network layer) in addition to layer 2 = data link layer).

Claim 25: Ozawa-Ikeda teaches the at least one upper-level protocol layer includes *one or more of a network layer, transport layer, and a session layer* (Ikeda, [0080]: layer 3 = upper-level protocol (network layer) in addition to layer 2 = data link layer).

Claim 26: Ozawa-Ikeda teaches the connection request generated by the connection request generating means comprises, in addition to a connection parameter for a data link layer, one or more connection parameters for establishing a connection between one or more upper-level protocol layers (Ikeda, [0080]: an actual establishment of

Layer 3 connection (establishment of L3), creation of an IP address and a Binding Update message on the basis of the IP packet simultaneously with L2 connection processing).

Claims **2** and **14** are rejected under 35 U.S.C. 103(a) as being unpatentable over Ozawa et al (JP 1997-224069 A, Ozawa) in view of Ikeda et al (US 2005/0083885 A1, Ikeda) and in further view of Krishnamurthy et al (US 7363534 B1, Krishnamurthy).

Claim **2**: Ozawa-Ikeda teaches the connection request generating means yet not exactly “a command for requesting the receiver to transmit a response with respect to the connection request.” Krishnamurthy teaches a command for requesting the receiver to transmit a response with respect to the connection request (col. 7 lines 51-65: LCP Configure-Request that comprises of *authentication* protocol; wherein *authentication* is interpreted to be requiring a reply from a partner to check for compatibility). It would have been obvious to one of ordinary skill in the art when the invention was created to modify the connection request of Ozawa to include a command for requesting the receiver to transmit a response with respect to the connection request as taught by Krishnamurthy to ensure link-layers are connected without error.

Claim **14**: Ozawa-Ikeda teaches response transmitting means for transmitting a response yet not exactly “in case when the connection request contains a command for requesting transmission of response to the connection request.” Krishnamurthy teaches in case when the connection request contains a command for requesting transmission of response to the connection request (col. 7 line 66 – col. 8 line 10 & 44-45: LCP Configure-Ack responds to the Configure-Request for configuration compatibility and authentication). It

would have been obvious to one of ordinary skill in the art when the invention was created to modify the response transmitting means of Ozawa to respond in case a command for requesting the receiver to transmit a response to the connection request as taught by Krishnamurthy to ensure link-layers are connected without error.

Claims **5** and **15** are rejected under 35 U.S.C. 103(a) as being unpatentable over Ozawa et al (JP 1997-224069 A, Ozawa) in view of Ikeda et al (US 2005/0083885 A1, Ikeda) and in further view of Pettus et al (US 5515508, Pettus).

Claim **5**: Ozawa-Ikeda teaches the transmitter comprising the connection request generating means (fig. 1: IrLAP 12) yet not expressively “a command for requesting the receiver to transmit a response during data exchange.” Pettus teaches a command for requesting the receiver to transmit a response during data exchange (col. 18 lines: 30-46: service request ... “streamed” onto the data stream to a remote node). It would have been obvious to one of ordinary skill in the art when the invention was created to implement a function to send a command for requesting the receiver to transmit a response during data exchange as taught by Pettus into connection request generating means of Ozawa-Ikeda to allow dynamic configuration of protocol stacks between two devices.

Claim **15**: Ozawa-Ikeda teaches the receiver comprising response transmitting means for transmitting a response (fig. 1: IrLAP 22 → UA step 6) yet not expressively “in case where the connection request contains a command for requesting transmission of response during data exchange.” Pettus teaches sending a response in case where the connection request contains a command for requesting transmission of response during

data exchange (col. 19 lines 5-13: if a reply is required... dispatcher inserts reply onto a data stream... forwards to client node). It would have been obvious to one of ordinary skill in the art when the invention was created to implement a function to detect in case where the connection request contains a command for requesting transmission of response during data exchange as taught by Pettus into the response transmitting means of Ozawa-Ikeda to allow dynamic configuration of protocol stacks between two devices.

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ozawa et al (JP 1997-224069 A, Ozawa) in view of Ikeda et al (US 2005/0083885 A1, Ikeda) and Elzur (US 2003/0169744 A1) and in further view of Ichimi (US 6865687 B1).

Claim 7: Ozawa teaches a communication system includes a transmitter and a receiver which carry out communication by establishing connection of their plurality of communication layers (fig. 1; *abstract*),

the transmitter (fig. 1: device 1) comprising:

first connection request generating means (fig. 1: IrLMP 11) for generating a connection request and connection request transmitting means for transmitting to the receiver the connection request generated (fig. 1: IrLMP 11 sends SNRM step 3). Ozawa does not very explicitly show the transmitted or received connection request "containing a command and data required for connecting a number of contiguously adjacent layers among the plurality of communication layers." Ikeda teaches connection request containing a command and data required for connecting a number of contiguously adjacent layers among the plurality of communication layers ([0080]: actual establishment

of Layer 3 connection (establishment of L3), creation of an IP address and a Binding Update message on the basis of the IP packet simultaneously with L2 connection processing – L3 and L2 are contiguous and the L3 connection establishment is simultaneous with that of L2). It would have been obvious to one of ordinary skill in the art when the invention was created to be motivated to reprogram the connection request of Ozawa to perform contiguous adjacent layers connection as taught by Ikeda for quick mobile to mobile handover and communication processing (Ikeda: abstract).

Yet, “*second connection request generating means for generating a connection request containing a command and data required for connection one of the plurality of communication layers; and*

[connection request transmitting means] transmitting to the receiver the connection request generated by the *first or second connection request generating means*” are not very explicitly mentioned by Ozawa-Ikeda.

Elzur teaches second connection request generating means (fig. 2: hardware module 20) for generating a connection request containing a command and data required for connection one of the plurality of communication layers ([0006] line 3: set-up request; [0020] lines 6-10: route the incoming packet to the appropriate software layer);

connection request transmitting means (fig. 2: hardware module output port towards the layers) transmitting to the receiver the connection request generated by the first or second connection request generating means ([0018] lines 24-35: tests layer to see if it is appropriate layer before selecting layer to route towards). It would have been obvious to one of ordinary skill in the art when the invention was created to implement the second

connection request generating means and to transmit to the receiver the connection request generated by the first or second connection request generating means selected by the selecting means as taught by Elzur to the transmitter device of Ozawa-Ikeda to provided the different types of connections requested.

Yet, "selecting means for selecting either of the first connecting means and the second connecting means and the second connecting means so as to generate the connection request; and the first and second connection request generating means *selected by the selecting means*" are not exactly mentioned by Ozawa-Ikeda-Elzur.

Ichimi teaches selecting means (fig. 5: line selector 51) for selecting either of the first connecting means and the second connecting means and the second connecting means so as to generate the connection request (col. 5 lines 14-27: selector); and the first and second connection request generating means *selected by the selecting means* (col. 5 lines 17-21 & 29-34: first or second physical layer is selected for connection). It would have been obvious to one of ordinary skill in the art when the invention was created to add a selector as taught by Ichimi to select between the first and second connection request generating means of Ozawa, in combination with Ikeda and Elzur, in order to provide the different types of connections requested and allow communication continue.

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ozawa et al (JP 1997-224069 A, Ozawa) in view of Ikeda et al (US 2005/0083885 A1, Ikeda) and in further view of Salokannel et al (US 2005/0014468 A1, Salokannel).

Claim 9: Ozawa-Ikeda teaches the transmitter but not exactly as "a mobile phone." Salokannel depicts a mobile phone (fig. 1: 110) transmitting infrared signals to receiving devices ([0027]: Bluetooth, infrared is traditionally used). It would have been obvious to one of ordinary skill in the art when the invention was created to implement the infrared layer communication structure as taught by Ozawa-Ikeda-Salokannel into the mobile phone of Salokannel to ensure connection between the transmitter/phone and receiver is in sync.

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ozawa et al (JP 1997-224069 A, Ozawa) in view of Ikeda et al (US 2005/0083885 A1, Ikeda) and in further view of Chen et al (US 2003/0107651 A1, Chen).

Claim 10: Ozawa-Ikeda teaches the transmitter but not exactly as "an image-capturing device which transmits a captured image to the receiver." Chen teaches an image-capturing device which transmits a captured image to the receiver in an infrared communication environment (fig. 3: digital camera sending a JPEG image to a printer receiver; [0031]). It would have been obvious to one of ordinary skill in the art when the invention was created to implement the infrared layer communication structure as taught by Ozawa-Ikeda into the digital camera of Chen to ensure connection between the transmitter/camera and receiver/printer is in sync.

Claims 11, 19, 20 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ozawa et al (JP 1997-224069 A, Ozawa) in view of Ikeda et al (US



2005/0083885 A1, Ikeda) and in further view of Tada et al (US 2004/0081436 A1, Tada).

Claims **19** and **20**: Ozawa-Ikeda teaches the receiver yet not expressly as “a broadcast receiving and recording device which receives and records broadcast received from the transmitter.” Tada teaches a recording-receiving device which receives and records broadcast received from the transmitter ([0071]: a digital-broadcast-sending/receiving unit 1 that connects to an antenna ANT; a recording unit 2 that functions as a recording device). It would have been obvious to one of ordinary skill in the art when the invention was created to modify the receiver of Ozawa-Ikeda to implement the receiving-recording functions for broadcast contents as taught by Tada for facilitating recording live contents streamed on television, as an example.

Claims **11** and **21**: Ozawa-Ikeda teaches the transmitter and receiver yet not “computer programs causing a computer to function as the respective means of the transmitter or the respective means of the receiver.” Tada teaches computer programs causing a computer to function as the respective means of the transmitter or the respective means of the receiver ([0071]: a digital-broadcast-sending/receiving unit 1 that connects to an antenna ANT – thus, the unit can be programmed to become a sending or receiving unit). It would have been obvious to one of ordinary skill in the art when the invention was created to modify the transmitter and receiver of Ozawa-Ikeda to implement computer programs to function as the respective means of the transmitter or the respective means of the receiver as taught by Tada as the flexibility of allowing a

device to become a receiver (e.g. for reproducing and recording contents) and a transmitter (e.g. for providing contents).

### ***Response to Arguments***

Applicant's arguments with respect to claims 1, 7, 8, 12, 13, 17, 22 and 23 – 27 have been considered but are moot in view of the new ground(s) of rejection. The examiner disagrees that Ozawa does not teach "the connection request containing a command and data required for connecting a number of contiguously adjacent layers among the plurality of communication layers" (remarks pg. 11) since IrLMP and IrLAP are literally contiguous to each other and there is a connection request involved just by the claim limitation language itself as interpreted; nonetheless, new reference, **Ikeda**, is applied. For new claims 24-27, see Ozawa in view of Ikeda as well.

Applicant's arguments regarding claims 6 and 16 have been fully considered but they are not persuasive. The examiner disagrees that Takahashi does not teach "disconnection request generating means for generation a disconnection request containing a command and data required for disconnecting a number of contiguously adjacent layers among the plurality of communication layers" (remarks pg. 12) and "disconnection request receiving means for receiving a disconnection request containing a command and data required for disconnecting a number of contiguously adjacent layers among the plurality of communication layers" because just by looking at fig. 4 of Takahashi, disconnection request (6) and (12) passes through contiguous layers "upper layer," IrLMP and IrLAP on device A to device B and up through

contiguous layers IrLAP and IrLMP again with disconnection request (14) and (10) respectively.

MPEP chapter 2100, section 2111 R-5:

During patent examination, the pending claims must be "given their broadest reasonable interpretation consistent with the specification." >The Federal Circuit's en banc decision in *Phillips v. AWH Corp.*, 415 F.3d 1303, 75 USPQ2d 1321 (Fed. Cir. 2005) expressly recognized that the USPTO employs the "**broadest reasonable interpretation**" standard:

The Patent and Trademark Office ("PTO") determines the scope of claims in patent applications not solely on the basis of the claim language, but upon giving claims their broadest reasonable construction "in light of the specification as it would be interpreted by one of ordinary skill in the art." In re Am. Acad. of Sci. Tech. Ctr., 367 F.3d 1359, 1364[, 70 USPQ2d 1827] (Fed. Cir. 2004). Indeed, the rules of the PTO require that application claims must "conform to the invention as set forth in the remainder of the specification and the terms and phrases used in the claims must find clear support or antecedent basis in the description so that the meaning of the terms in the claims may be ascertainable by reference to the description." 37 CFR 1.75(d)(1). 415 F.3d at 1316, 75 USPQ2d at 1329. See also In re Hyatt, 211 F.3d 1367, 1372, 54 USPQ2d 1664, 1667 (Fed. Cir. 2000). Applicant always has the opportunity to amend the claims during prosecution, and broad interpretation by the examiner reduces the possibility that the claim, once issued, will be interpreted more broadly than is justified. In re Prater, 415 F.2d 1393, 1404-05, 162 USPQ 541, 550-51 (CCPA 1969) (Claim 9 was directed to a process of analyzing data generated by mass spectrographic analysis of a gas. The process comprised selecting the data to be analyzed by subjecting the data to a mathematical manipulation. The examiner made rejections under 35 U.S.C. 101 and 102. In the 35 U.S.C. 102 rejection, the examiner explained that the claim was anticipated by a mental process augmented by pencil and paper markings. The court agreed that the claim was not limited to using a machine to carry out the process since the claim did not explicitly set forth the machine. The court explained that "reading a claim in light of the specification, to thereby interpret limitations explicitly recited in the claim, is a quite different thing from reading limitations of the specification into a claim," to thereby narrow the scope of the claim by implicitly adding disclosed limitations which have no express basis in the claim." The court found that applicant was advocating the latter, i.e., the impermissible importation of subject matter from the specification into the claim.). See also In re Morris, 127 F.3d 1048, 1054-55, 44 USPQ2d 1023, 1027-28 (Fed. Cir. 1997) (The court held that the PTO is not required, in the course of prosecution, to interpret claims in applications in the same manner as a court would interpret claims in an infringement suit. Rather, the "PTO applies to verbiage of the proposed claims the broadest reasonable meaning of the words in their ordinary usage as they would be understood by one of ordinary skill in the art, taking into account whatever enlightenment by way of definitions or otherwise that may be afforded by the written description contained in applicant's specification.").

The broadest reasonable interpretation of the claims must also be consistent with the interpretation that those skilled in the art would reach. In re Cortright, 165 F.3d 1353, 1359, 49 USPQ2d 1464, 1468 (Fed. Cir. 1999) (The Board's construction of the claim limitation "restore hair growth" as requiring the hair to be returned to its original state was held to be an incorrect interpretation of the limitation. The court held that, consistent with applicant's disclosure and the disclosure of three patents from analogous arts using the same phrase to require only some increase in hair growth, one of ordinary skill would construe "restore hair growth" to mean that the claimed method increases the amount of hair grown on the scalp, but does not necessarily produce a full head of hair.)

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

1. Nakata et al, US 5509121 A: a plurality of different upper layer protocols select a plurality of different data link control types for communication, it is possible to install a common interface controller between the upper layer protocol controllers and the data link controllers, to specify one of a plurality of data link control types when an upper layer protocol controller issues a connection request to the common interface controller, and to combine an optional upper layer protocol to an optional data link control type because the common interface controller stores the correspondence between the upper layer protocol controllers and data link control types, and furthermore to operate them simultaneously.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Xavier Wong whose telephone number is 571.270.1780. The examiner can normally be reached on Monday through Friday 8:30 am - 6:00 pm (EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Seema Rao can be reached on 571.272.3174. The fax phone number for the organization where this application or proceeding is assigned is 571.273.8300.

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/Xavier Szewai Wong/  
x.s.w  
13<sup>th</sup> December 2009